IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.802 OF 2003

Shankarbai Narayan Manchikatala ...Appellant
Vs.
Bhiwandi Nizampur City Municipal
Corpn. ...Respondent

Mr Mhatre with Mr P.K.Dhakephalkar for the Appellant.

CORAM : A. S. OKA, J.
DATE : APRIL 28, 2006.

P.C.:

1. Heard the learned Advocate appearing for the Appellant. Suit for perpetual injunction filed by the Appellant-Plaintiff was decreed by the Trial Court. The Appellate Court has interfered in the Appeal preferred by the Respondent-Corporation.

2. The Appellate Court has recorded a finding of fact that the Appellant could not establish the authorisation for the disputed structure. Therefore, the Appellate Court held that the construction of the structure was not legal.

3. After having heard the learned Advocate appearing for the Appellant, I find no error in the view taken up by the Appellate Court. Finding of the Appellate Court is based on the apprehension of the oral and documentary evidence on record. No substantial question of law arises. Appeal is

therefore dismissed.

4. The learned Advocate appearing for the Appellant prays that ad-interim order passed earlier may be continued for reasonable time as the Appellant proposes to apply for regularisation of the structure. He states that if Application is made by the Appellant for regularisation the same may be ordered to be considered on its own merits. None appears for the Respondent.

5. Considering the fact that ad-interim order passed by this court is operating for last more than two years, the prayer made by the Advocate appearing for the Appellant deserves to be granted.

6. Notwithstanding dismissal of the Appeal both the parties are directed to maintain status-quo as of today in respect of the suit structure for a period of sixteen weeks from today. In the meanwhile, the Appellant is free to apply for regularisation of the suit structure. If such Application is made the Respondent-Corporation will consider the same on its own merits.

JUDGE